

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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BRICKLAYERS INSURANCE AND  
WELFARE FUND, BRICKLAYERS  
PENSION FUND, BRICKLAYERS  
SUPPLEMENTAL ANNUITY FUND,  
BRICKLAYERS AND TROWEL TRADES  
INTERNATIONAL PENSION FUND,  
NEW YORK CITY AND LONG ISLAND  
JOINT APPRENTICESHIP AND  
TRAINING FUND, INTERNATIONAL  
MASONRY INSTITUTE, and JEREMIAH  
SULLIVAN, JR., in his fiduciary capacity as  
Administrator, BRICKLAYERS LOCAL 1,  
INTERNATIONAL UNION OF  
BRICKLAYERS AND ALLIED CRAFT  
WORKERS, and BRICKLAYERS LABOR  
MANAGEMENT RELATIONS  
COMMITTEE,

Plaintiffs,

-against-

VERSE INC. d/b/a ART IN  
CONSTRUCTION,

Defendant.

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**MEMORANDUM AND ORDER**

Case No. 12-CV-4271 (FB) (JMA)

**BLOCK, Senior District Judge:**

On August 20, 2013, Magistrate Judge Azrack issued a report and recommendation ("R&R") recommending that the Court grant plaintiffs' motion for a default judgment and enter a judgment in the total amount of \$57,514.32 against Verse Inc. d/b/a Art in Construction ("Verse"), for its failure to make contributions to various employee funds as required under a collective bargaining agreement ("CBA"). The R&R

also recommended granting an injunction requiring Verse to submit to an audit of its books and reports for the 13-month time period from January 1, 2011, through January 31, 2012, the date the CBA expired.

The R&R recited that “[a]ny objections to this Report and Recommendation must be filed . . . within fourteen days of receipt hereof,” and that “[f]ailure to file timely objections may waive the right to appeal the District Court’s Order.” R&R at 15. On August 27, 2013, the R&R was served on Verse, making objections due by September 10, 2013. To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object, however, and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

The R&R contains no error, let alone plain error. Accordingly, the Court adopts it without *de novo* review. The Clerk shall enter judgment in favor of plaintiffs in the total amount of \$57,514.32, reflecting: (1) \$41,458.26 in unpaid contributions and dues; (2) \$8,115.60 in interest; (3) \$7,590.46 in liquidated damages; and (4) \$350 in costs. The defendant is enjoined to submit to an audit of its books and reports for the time period limited to January 1, 2011, through January 31, 2012.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

September 11, 2013  
Brooklyn, New York